

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -- )  
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Contel Advanced Systems, Inc. ) ASBCA No. 49074  
)  
Under Contract No. N60530-90-D-0023 )

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OPINION BY ADMINISTRATIVE JUDGE HARTY

Contract No. N60530-90-C-0023 (redesignated N60530-90-D-0023 in January 1996) was awarded by the Navy’s Air Warfare Center Weapons Division, China Lake, CA in September 1990 to Contel Advanced Systems, Inc. (CASI) on a lease to ownership (LTOP) basis. The contract required CASI to design, install, and maintain a new, state-of-the-art digital switching system known as the Center Telecommunications System (CTS). Performance was divided into two phases: (1) the implementation phase; and (2) an operation, maintenance and administration phase. As part of its implementation responsibilities, CASI was required to establish the Telecommunications Administration System (TAS), the overall system to administer the CTS, including the switch. Establishing the TAS involved selecting, installing, and staffing the computer system for administration, along with inputting and maintaining all topographical and subscriber information.

This appeal<sup>1</sup> stems from a certified claim for \$393,333.56, alleging that the Navy breached its duty of cooperation in connection with loading of data into the TAS system. In

addition, the claim also seeks recovery for the costs associated with the relocation of the TAS equipment during performance, which CASI attributes to the Navy. (SR4, tabs 1854, 2031) Only entitlement is to be decided.

We deny the appeal because we conclude that CASI has failed to prove that the Navy breached its duty of cooperation or that the Navy was responsible for the costs associated with CASI's relocation of the TAS equipment.

## FINDINGS OF FACT

### Contract Requirements

The contract required CASI to install a TAS to provide overall CTS administration (SR4, tab 1, Attach. 2-System Requirements Specification (SRS), ¶ 3D at 13). The contract described the TAS as:

[A] noninterfering system external to the switching control processors which provides data collection, report generation, configuration management, and an administrative interface to the CTS.

(*Id.*, ¶ 3.4 at 40)

The switch was defined in testimony as “a glorified computer system” with a “matrix built within it” providing dial tone to callers. It allows callers to dial and then interconnect with other subscribers. (Tr. 1/45) The switch actually provides the dial tone and part of the TAS system maintains all the information about a customer (tr. 3/9).

TAS reporting function requirements were quite extensive and included data entry verification reports (SR4, tab 1, Attach. 2-SRS, ¶ 3.4.2.2 at 41-44).

The contract required a minimum of twenty station features at each telephone station on a per line basis (*id.*, ¶ 3.6.2 at 52-53). “Station” was defined by the contract as a “telephone instrument, one of the input or output points of a communications system” (SR4, tab 1, Attach. 5-Glossary at 22). The station features were to be operational on all telephones on base at “cutover,” defined as the time at which the telecommunications traffic is transferred from the existing system to the newly installed CTS (SR4, tab 1, Attach. 2-SRS, ¶ 3.6.2 at 52, Attach. 5-Glossary at 12; tr. 6/108).

CASI's proposal represented that CASI would offer 28 station features to all station users, regardless of the type of telephone equipment (SR4, tab 3 at I.2-267 through -276). CASI also stated that it would offer an additional 12 features, which CASI termed

“Enhanced Business Service Station Features,” with the initial installation of CTS (*id.* at I.2-273 through -276).

The contract also required multiappearance line directory numbers (SR4, tab 1, Attach. 2-SRS at 35). CASI stated that it would provide Electronic Telephone Sets (ETS) which could be programmed with Multiple Appearance Directory Numbers (MADN), defined as a Directory Number (DN) assigned to more than one ETS. When there was a call to a MADN line, all members’ sets ring and the first to go “off-hook” is connected to the call. CASI’s proposal stated that MADN groups could be comprised of up to 32 stations. (SR4, tab 3 at I-2-276 through -288)

The TAS main equipment was required by the contract to be located with the Main Site switch in its building, while the TAS interface equipment was to be located in Building 00002 (SR4, tab 1, Attach. 2-SRS, ¶ 3.4 at 40).

The contract specified that the TAS system:

[S]hall be a stand-alone system consisting of off-the-shelf items whenever possible. Standard commercial equipment and software which has been available to the public and in use for at least 1 year shall be used. In addition, during the past year at least three sites in the United States and/or Canada shall each have been using the same off-the-shelf equipment and software.

(*Id.*, ¶ 3.4.4 at 46, *see also* ¶ 3.2.J at 17)

The contract specifically required contractors to “justify the necessity” for developing any software (SR4, tab 1, Attach. 2-SRS, ¶ 3.2.P at 20).

CASI’s proposal, incorporated by reference into the contract, explained that Northern Telecom, Inc. (NTI)’s family of MSL-100 host/remote digital switches were at the core of its design (SR4, tab 3 at I-1-3). CASI proposed using a “Host-Remote” network concept, providing an MSL-100 Host at the Main Site and remotes at the other eight sites. The TAS equipment was defined as a “stand-alone system that operates on an AT&T 3B2/10000 Model 60 computer” using an Oracle relational data base (SR4, tab 3 at I-2-131). The major component that would function as the TAS for the CTS was the Communications Control Center (C3) from Logica Data Architects (Logica). (SR4, tab 3 at I.2-18) Logica’s name later changed to Strata Group (SR4, tab 1170); however, for convenience we will refer to CASI’s subcontractor as Logica in most instances.

TAS design and functionality were defined in the proposal as:

[A] noninterfering system that is external to the MSL-100. The C3 is a fully-integrated computer system that interfaces directly to the MSL-100, collecting call detail records, traffic, and alarms. Reports are based on this automatically collected information and the data entered by user through the C3 subsystems. The device link subsystem assists the user in configuration management of the MSL-100 and serves as an administrative interface to the switch. The C3 hardware will be colocated with the MSL-100 Host switching equipment in the Contel-proposed new building adjacent to Michelson Lab. Terminals and ancillary equipment associated with the C3 will be located in the proposed Control Center in Building 00002. Terminals connected to the C3 either directly or remotely via modems can access the system with minimum equipment rearrangement.

Logica's C3 meets and exceeds the TAS requirements specified by the Government. These capabilities include access, functions, performance, and equipment.

(SR4, tab 3 at I-2-118)

The terms "switch update" and "automatic switch update" refer to the same software feature developed by Logica and these terms were used interchangeably by the Government, CASI and Logica during the course of the project. Switch update was identified in CASI's proposal as a software feature of the proposed C3 TAS system and functioned as follows:

Unique to the Service Order system, the C3 can automatically update the switch as a response to requests for adds, moves, and disconnects. The switch update process is integrated into the background service order processor. When an order is processed by the background processor the circuit feature information is translated into the appropriate switch commands for processing. Only subscriber switch information is automatically updated from service order.

(SR4, tab 3 at I.2-175)

During the solicitation phase, CASI represented to the Government that the switch update process was "inherent" in the C3 TAS service order module (SR4, tab 6, Proposal at I.2-118, I.3-67 (Change 2); Contel's resp. to Navy's ltr. of 27 February 1990 at 3, 12).

In response to the Government's Proposal Deficiency Questions, CASI represented the C3 TAS as "fully developed" and a "fully compliant, proven system" (SR4, tab 6, Contel Resp. to Technical and Management Deficiency Questions dtd. 14 August 1989 at 56). CASI further stated that "total technical compliance to the SRS requirements would be achieved through a very minimal amount of the modification to the baseline C3 application software package" (*id.* at 144). CASI also stated that "Contel [did] not anticipate the need for special software development in order to meet the Government's data base or reporting requirements" (SR4, tab 6, Contel Resp. to Technical and Management Deficiency Questions dtd. 27 February 1990 at 20).

At the time CASI prepared and submitted its proposal, the automatic switch update was not a standard feature of Logica's C3 baseline (SR4, tabs 38, 1117 at A-09899, 1976 at A-07978-79).

Prior to the award of the CTS contract, three CASI representatives, Mr. Ruhl DeLaet, project engineer, Mr. George Hardy and Mr. Mike Thibodeau, visited Logica (SR4, tabs 43, 45). Mr. Jeff Babaie, CASI's proposal manager and later its implementation manager, was subsequently briefed and reported by memorandum dated 18 May 1990 to CASI's president, James Miles, who subsequently signed the contract. Mr. Babaie recognized that the contract required a "tremendous amount of information" to be entered into the C3 and that data base entry would require a "tremendous amount of manpower to complete." He characterized Logica's switch update feature as "vaporware," because this feature "[did] not yet exist for our application." Mr. Babaie further explained that the switch update feature, along with several other key features of the C3 software, was "on the drawing board but not yet in operation." (SR4, tab 43)

In an internal memorandum dated 29 May 1990, Mr. DeLaet advised Mr. Barbaie that in the event the C3 failed to operate as the TAS, subscriber data would be loaded directly into the switch:

Subscriber data will be handled manually. The required subscriber data sheets supplied by NTI will be completed, with input being done into the switch from MAP terminals. The only deviation is direct access to and programming of the switch, as opposed to input[t]ing the information into the TAS and using the C3's Switch Update feature to actually load the switch.

All other databases (equipment, cable, etc.) will be established and maintained on PCs in a format that will allow uploading to the C3 at a later time.

(SR4, tab 47)

CASI was awarded the CTS contract on 6 September 1990, with an effective date of 24 September 1990, and CASI's proposal was incorporated by reference (SR4, tab 1 at 1). CASI's master program schedule of 26 October 1990 (CASI's baseline schedule) indicated that TAS data base activities were to commence on 24 December 1990 and conclude on 9 August 1991 (AR4, tab 31, figure 1-2). The proposed MSB, which was to house the TAS hardware, had a completion date of 14 April 1991, with switch installation scheduled to be complete 25 June 1991 (AR4, tab 31, figures 1-6, 1-7). Based on CASI's baseline schedule, we find that CASI contemplated data base entry at some location other than the MSB since the MSB would not be complete at the time CASI planned to start its data base entry activities.

The schedule for the MSB changed when the original site at the Michaelson Labs was not available. In the fall of 1990, CASI was involved in negotiations for construction of a larger building at the new site, which would hold the switch, TAS equipment, and TAS personnel (*see Contel Advanced Systems, Inc.*, ASBCA No. 49072, 02-1 BCA ¶ 31,808 at 157,131).

#### CASI's Subcontract With Logica

On 25 January 1991, CASI executed a subcontract with Logica for the engineering, furnishing, installing, integrating and testing of the TAS. The contract was effective 31 December 1990 (SR4, tab 163). CASI's subcontract with Logica included an "aggressive" schedule for the TAS activities as follows:

TAS Installation Complete	03-08-91
....	
CASI Data Base Loading Start	03-18-91
TAS Relocation	06-03-91
Start TAS/MSL 100 Switch (Build)	
Integration Test	06-03-91
Delivery TAS Software Mods with	
Switch Update	09-30-91
TAS C3V4 Acceptance Test Complete	10-12-91
TAS Operational Training Complete	11-01-91
TAS 30-day Pre-CTS Cutover Test	
Period Complete	11-30-91
CTS Cutover	12-06-91

(SR4, tab 163 at A-13416)

Based on this schedule, we find TAS relocation was contemplated by CASI and Logica from the inception of the subcontract (SR4, tab 163 at A-13416).

CASI's subcontract with Logica also identified two phases of implementation for the purposes of payments as follows:

Phase I: All hardware, system software and version 3 of the C3 software application.

Phase II: C3v3 application software upgrade and CCMI tables.

(SR4, tab 163 at A-13314)

CASI's subcontract with Logica identified the objective of Phase I as follows:

The primary objective of Phase I is to provide CASI with the capability to perform CTS network database loading functions which must be completed prior to CTS cutover (Dec 91).

(SR4, tabs 329 at A-13492, 550 at A-08502; tr. 3/332).

CASI's subcontract with Logica provided that upon completion of Phase I, CASI was to have the ability to enter all the required data into the TAS. However, CASI was not going to be able to utilize the switch update software module until the C3 software was upgraded from C3 version 3 to C3 version 4, which was to come later in time. Thus, according to CASI's plan at the time of subcontracting, all the data entry was to be completed before the automatic switch feature was installed. (SR4, tabs 163 at A-13416, 329 at A-13494, 550 at A-08502, 1117 at A-09899)

Logica did not complete installation of the TAS by 8 March 1991 as scheduled in its subcontract, because Logica had difficulty compiling and testing the C3 version 3 software to work with Oracle version 6 data base software (SR4, tabs 346 at A-08273, 376). Due to these problems, the TAS installation was not finished until 22 March 1991, with the baseline acceptance test not taking place until 12 April 1991 (SR4, tab 457 at A-20714-15).

Logica installed the TAS in Building 00002 as directed by CASI (SR4, tab 422; tr. 3/36-37). Although TAS installation in Building 00002 was completed on 12 April 1991, CASI did not hire or schedule any Business Service Representatives (BSRs)—those

people whose job it was to input the data—to begin work on the CTS project until 3 June 1991 (SR4, tab 502 at Bates G-02738; tr. 3/161). We find that CASI was not ready to enter any information into the data base until 3 June 1991.

### Topography and Subscriber Data Base Entries Into TAS

Before the C3 subsystem could receive information relating to users or subscribers, CASI's BSRs needed to input information about the topography of the base, *i.e.*, building locations, building numbers, demark locations, cable locations and cross connects (tr. 3/12-13, 16-18, 41, 157-58). Much of this basic information was provided to the BSRs by CASI following CASI's line and station survey, although "Code hierarchy"—the various Navy organizational elements at China Lake—was provided by the Navy (tr. 3/20, 6/86-87). After completing the input of the topography data, CASI was to input information about individual subscribers (tr. 3/16-19). Subscriber information consisted of two types of information: user information and user feature information (tr. 3/18-20). Originally, the contract contemplated that CASI itself would gather the subscriber information that CASI needed for input into the data base (SR4, tab 4, ¶ 2.5.5.4. at II.2-158<sup>2</sup>). In practice, however, the Government accomplished this for CASI (tr. 3/21-22; RFA ex. 2, # 101 at 13). User information was put on a form which was called, at various times, "subscriber database loading form," "subscriber data," "subscriber information," "database forms," "service requests," and "service orders." These terms were used interchangeably by the parties.

### Problems With Subscriber Data Base Loading Forms

In May 1991, CASI provided the Government with a subscriber data base loading form for use in the Government's subscriber data collection effort (AR4, tab 940; tr. 3/23-24, 6/88-90). Ms. Nancy Autrey, a Government communications specialist, started gathering subscriber data information that she placed on the forms provided by CASI. For the user, the form requested billing account code (BAC), circuit type (voice or data), circuit identifier (phone number), circuit name (user name), line class code (relating to the type of equipment installed), circuit location, and class of service (dialing plan including off-base and/or long-distance dialing). For the feature information, CASI needed to know the types of phone service features a user required, such as last number re-dial, call forward, etc. (AR4, tab 940; tr. 3/18-25, 165-67, 6/92) Ms. Autrey started by establishing a special form that she provided to points of contact for different Codes, and then she met personally with each point of contact to go over what information was needed and why (tr. 6/89-90). She obtained the necessary information from the points of contact, but made the final determination as to what features each user received herself (tr. 6/91). Ms. Autrey completed her information gathering by 1 June 1991 (SR4, tab 928; tr. 6/129).

Ms. Autrey's plan had been to take the information she had obtained from the Codes, as well as the feature information she would select for each user, and put it onto the



subscriber data base forms to be forwarded to CASI (tr. 6/91-92). After completing her compilation of information from the points of contact at the Codes, however, Ms. Autrey was unable to make the necessary selections of features for the users, because she needed information from CASI on the feature acronyms for the switch manufactured by NTI. The term “acronym” in the context of the telephone industry is a programming tool to load a switch. Each switch manufacturer has its own set of acronyms, some of which may be the same as those of other manufacturers and some which may be unique to that manufacturer (tr. 6/92-93). In addition, Ms. Autrey needed information on how the features would interact, because particular features could potentially conflict with other features (tr. 6/94). Ms. Autrey requested the acronym or feature information that was unique to the CTS switch from CASI. She dealt with CASI’s Mr. DeLaet and Mr. Ray Saturnino, TAS supervisor, and they promised her they would provide the information she needed (tr. 6/95-96).

CASI did not have the information regarding the features and acronyms and had to go back to the vendor of the switch, NTI, to get it (tr. 6/101-02).

On 25 June 1991, Ms. Autrey again asked Mr. Saturnino for the information that she needed and indicated that the Government could not begin completing subscriber data base loading forms without it (SR4, tab 608 at R-10975).

On 11 July 1991, Ms. Autrey discussed the correct codes for loading features for phones with Mr. DeLaet and indicated that a sample from NTI showed a conflict of acronyms. Mr. DeLaet promised to get back to her. (*Id.* at R-10975)

On 15 July 1991, Ms. Autrey and Mr. Saturnino met again to discuss the feature acronyms. Following the meeting, Ms. Autrey recorded, “Still do not have good definition of how the feature activates either by the switch or by the user.” (SR4, tab 608 at R-10975) She again contacted Mr. Saturnino on the morning of 16 July 1991 to see if he had the information and he indicated that he had put in a call to NTI and was waiting for a call back. Later that day, he informed Ms. Autrey that NTI had promised to mail documentation to CASI and he would get back to her when it arrived. (*Id.* at R-10975)

On 19 July 1991, Ms. Autrey informed CASI that its failure to provide the necessary acronym information had put her four weeks behind schedule (SR4, tab 608 at R-10975). Throughout July and well into August 1991, CASI continued to have difficulties in providing the information (SR4, tabs 608 at R-10977, 726 at G-01780). By letter dated 21 August 1991, CASI finally officially provided the feature and acronym information that Ms. Autrey had been asking for since June 1991. CASI’s letter stated that obtaining this information had entailed “much effort” by one of its employees. (SR4, tab 769; tr. 6/102-03)

At no time during this process, was Ms. Autrey told that CASI really did not need the feature acronym information and the Navy could have given CASI less detailed information (tr. 6/104, 109).

In its 21 August 1991 letter, CASI also requested that the Government provide piece-meal submissions of data base forms, starting by 11 September 1991 (SR4, tab 769; tr. 6/104).

On 11 September 1991, Ms. Autrey tried to give data sheets to CASI but was told by Mr. Saturnino that there was a “bug” in the TAS software that would be fixed with the new version of the software (SR4, tab 608 at R-10978-78A). It has not been established that Ms. Autrey actually transferred subscriber data base sheets to CASI on this date (tr. 3/108, 6/105-07, 155). It is clear, however, from CASI’s weekly status report, that on 11 September 1991, because of problems with the software, CASI’s TAS personnel were unable to “perform service orders” (SR4, tab 827 at A-24651). CASI could still “not populate the database” as of 16 September 1991, and a technical meeting was scheduled for 24 September 1991 (SR4, tab 841 at G-01358). Furthermore, due to TAS software upgrade, CASI was not able to conduct data entry from 26 September through 7 October 1991 (SR4, tab 804).

#### CASI’s Problems With Logica’s System

Prior to the start of the topography data base loading by the BSRs in the summer of 1991, CASI had experimented with the C3 software in the TAS test environment (SR4, tab 502 at G-02738). As soon as CASI began to use the TAS, software bugs in the C3 version 3 software became apparent (*id.* at G-02741). As these software bugs were discovered, CASI notified Logica of the software defects and Logica attempted to resolve the problem and provide a software fix (tr. 3/55-57).

After CASI had worked with the TAS for a few weeks, CASI was so concerned over the poor system performance that it withheld \$100,000.00 in progress payments to Logica. By letter of 27 June 1991, CASI informed Logica that it was withholding payment, because it believed that there were “numerous problems . . . with the C3 system which indicate[d] to CASI that additional attention/work [had to be] performed prior to release of full payment.” CASI complained that Logica had not performed factory acceptance testing on any of the software delivered to CASI and had made minimal progress in its development of the automatic switch update software. (SR4, tab 1881)

Throughout the month of July 1991, the C3 version 3 software was plagued by a bug, which caused the data base to crash when more than one user attempted to add cable information (SR4, tabs 630, 650, 666, 668, 672, 676, 701). To resolve the problem, Logica was required to rewrite the software code (SR4, tab 805 at A-20674).

By early August 1991, CASI, in an expression of concern with the inadequate performance of the C3, requested a list of Logica's current Unix-based C3 customers (SR4, tab 805 at A-20674). The information provided by Logica indicated that only two other customers were using a Unix-based C3 subsystem, neither of which had the automatic switch update feature (SR4, tab 708).

Sometime in August 1991, Mr. Saturnino began to test the data entry of service orders in the TAS C3 test environment (SR4, tab 786). As of late August 1991, CASI was still unable to enter specific feature options for service orders without receiving error messages. CASI could not enter service orders until the problem was fixed. (SR4, tabs 786, 788)

In early September 1991, Logica acknowledged that its C3 version 3 software had been exhibiting performance problems. Logica admitted that "CASI [was] among the first users of the system and [was] experiencing some 'shakeout' problems." (SR4, tab 805 at A-20674)

On 6 September 1991, CASI reported the problems with data entry of service orders with C3 version 3 software it characterized as "slow performance." Logica's only plan for resolution of this problem was to wait until C3 version 4 software was installed and then to test the performance of C3 version 4. (SR4, tab 815 at A-08601)

CASI's weekly status report as of 11 September 1991, reflects CASI's continuing problems with service orders and TAS application problems (SR4, tab 827).

In an executive management meeting of 16 September 1991, Mr. Saturnino admitted to the Government that CASI was not able to "populate the data base" and that discrepancy testing couldn't be done (SR4, tab 841 at G-01361).

On 30 September 1991, Logica began converting the TAS software from C3 version 3 to C3 version 4. Once the software was installed, Logica converted the C3 version 3 data base to a C3 version 4 data base. Phase One Acceptance Testing of the non-switch interfaced subsystems of C3 version 4 was completed on 7 October 1991. (SR4, tabs 851, 977 at A-08800)

We find that CASI's continued problems with Logica and the software for the TAS caused CASI to fall behind in its schedule for populating the TAS data base.

## Submission of Subscriber Data Base Loading Forms

On 2 October 1991, CASI informed the Navy that “[i]n order to meet an aggressive TAS implementation schedule, the cut off date for the receipt of Service Order data [was] 21 October 1991.” After this date, CASI requested that all service order information be delivered “no later than two weeks after ISP completion.” Further, the letter required that service orders be sorted “first by building, then by service orders that are the pilots for any feature groups.” (SR4, tab 894)

By letter of 8 October 1991, CASI informed the Navy it wanted to limit the options available on individual telephones, providing only two to five basic features, as opposed to the contractually required 20 and the over 28 features offered in its proposal (SR4, tab 907). As Ms. Autrey testified, CASI’s request was contrary to both the contract and to the standard practice in the telephone industry, requiring all station features to be available at cutover (SR4, tab 907; tr. 6/104, 107-09). CASI’s witness, Mr. Saturnino admitted that what CASI was asking for was “[not] industry practice” (tr. 3/97).

By letter dated 18 October 1991, the Navy responded to CASI’s correspondence, pointing out the delays caused by CASI’s failure to provide feature and acronym information as follows:

1. This memo is in response to a request for information to be delivered to CASI by 21 Oct 91 and [the Navy’s] inability to meet that request due to insufficient information.
2. In June 1991, the Government gathered data from NWC personnel necessary for programming the new switch. At that time, [the Navy] requested that CASI submit feature acronyms that would satisfy contract requirements for user features. [CASI memorandum of 21 August 1991] was submitted on 21 Aug 91 with a list of feature prompts and subprompts for programming. [Navy] and CASI personnel worked together to determine proper acronyms for required features.
3. [CASI memorandum of 21 August 1991] also requested that database forms be delivered piecemeal to CASI beginning no later than 11 Sep 91. CASI did not request that the information be delivered in any particular sequence.
4. [CASI letter of 2 October 1991] requests that all database forms be submitted to CASI by 21 Oct 91. In addition, the CASI TAS supervisor has requested that data for Main Site

buildings be submitted first. The Government feels that CASI has not kept [its] personnel informed of the priority requirements (i.e. Main Site first) of this data and, as a result, has put the CTS team in a critical position causing us to extend man-hours into overtime. Also, [the Navy] was not notified that only the basic demark/directory number information was critical at this time ([CASI letter of 8 October 1991]). If this information had been provided to the Government at an earlier date, the delay caused by the extensive research for acronyms and prompts for the feature loading could have been postponed until after the initial load of the demark/directory number information was complete. As a result of insufficient prioritizing of information, [the Navy] will be unable to deliver the data for all completed buildings by 21 Oct 91. We will, however, begin to deliver data forms on that date.

(SR4, tab 928; AR4, tab 478)

By memorandum dated 21 October 1991, the Navy provided its first subscriber data base loading forms, covering 44 buildings, to CASI (SR4, tab 929). At the hearing, the Board admitted a chart produced by CASI, which was explained as reflecting the number of data sheets received, as opposed to processed, by CASI on given dates, the first date being 21 October 1991 and the last 26 May 1992. The chart shows that between 21 October and 31 October, 986 data sheets were received, with 330 received on 22 October. (Ex. A-27)<sup>3</sup> CASI did not immediately begin loading subscriber data forms.

#### Relocation of the TAS to the CASI Building

Before starting the entry of subscriber data, CASI decided to move the TAS from Building 00002 to the CASI Building (tr. 3/40). On 24 October 1991, Logica moved the TAS from Building 00002 to the CASI Building and conducted validation testing (SR4, tab 1011 at G-00020). Mr. Saturnino testified that there was a combination of reasons for moving the TAS. One of the stated reasons for moving the TAS was because CASI “needed a space more conducive to training.” (Tr. 3/64-65) However, Ms. Mona Lee King, one of the contracting officer’s technical representatives, testified that there was ample room for training in Building 00002 and, in fact, CASI and Logica had conducted some training for Government personnel in the building (SR4, tabs 977 at A-08801, 1011 at G-00020; tr. 5/264).

Mr. Saturnino also testified that CASI felt compelled to leave Building 00002, because there “was going to be a refurbishment made in that building” and that CASI “had to vacate” (tr. 3/40). However, on cross-examination Mr. Saturnino admitted:

I really don't think that the refurbishment was – I don't really think that the Government was pushing us to move or there was a compelling reason that was communicated back and forth.

(Tr. 3/72) Ms. King testified that the refurbishment of Building 00002 was not planned to take place until after system cutover and acceptance (tr. 5/264).

Mr. Saturnino also testified that security issues and access issues were involved in CASI's decision to leave Building 00002 (tr. 3/40). However, on cross-examination, he admitted that CASI could gain access to Building 00002 at any time. He explained that it was more for CASI's own personnel reasons that it wished to move: "we felt more comfortable being in one of our own buildings – a building that was owned by the parent company." (Tr. 3/69)

We find that the relocation to the CASI building was neither directed nor caused by the Navy, but was a decision CASI took for its own convenience.

CASI began loading service order information on 29 October 1991. By 6 November 1991 approximately 668 service orders had been entered into the TAS. (AR4, tab 519) By 19 November 1991 over 1,300 service orders had been entered into the TAS (AR4, tab 518). From 21 October 1991 through 15 November, 2,628 subscriber data forms had been submitted (ex. 27).

We find that once the loading of subscriber data began on 29 October 1991, there is no evidence that a lack of subscriber data forms ever delayed CASI. *See also* Ex. A-25 (revised).<sup>4</sup>

#### CASI's Move of the TAS to the MSB

CASI conducted data base loading of the TAS until 2 December 1991 (exs. A-32, 25 (revised)). On 2 December 1991, Logica began the move to the MSB (SR4, tab 1087 at A-08768). Logica completed relocating the TAS to the MSB and the associated acceptance testing on 20 December 1991 (SR4, tab 1087 at A-08772).

#### The Navy's Requests for As-built Drawings

At the 19 November 1991 Project Status Review, Mr. Saturnino also reported that discrepancies had been revealed between subscriber data base information submitted and CASI's wire installation. Moreover, some users had moved from wired locations. The Navy's representative, Ms. King, said change orders had been issued for those moves, so there should be no discrepancies. She was going to ensure that CASI had all the change

orders. He also said CASI was delayed because station information was late in coming from the Navy. The Navy's Ms. Autrey explained that most of the delays were caused by reconciling conflicts between the original floorplans and CASI's wire installation, but there was also some confusion about MADN station features. (SR4, tabs 1011 at G-00021, 1013 at G-01816)

By letter dated 25 November 1991, the Navy followed up with a request for as-built drawings and explained further that it could not give information to CASI for entry into the TAS without the drawings to verify demark numbers associated with the user's telephones in each location (SR4, tab 1027). The need for "as-builts" continued to be an issue. The Navy explained in a 2 March 1992 letter that while "approximately 95% of the database information was submitted to CASI on a site-by-site basis, . . . [a]pproximately 5% of the database information was non-obtainable because of the lack of as-built floor plans from CASI and the ability to obtain timely Code information" (SR4, tab 1216; *see also* SR4, tab 1201). On 6 March 1992, the Navy reminded CASI about the contractual requirement to provide initial as-built drawings upon request (SR4, tab 1232, *see also* tab 2, ex. A at 00000160 (CDRL A01Y)), while the final drawings were due at system acceptance (SR4, tab 2027, Modification No. P00002).

CASI was contractually required to provide initial as-built drawings when requested, with final as-built drawings due at system acceptance. We find that the Navy had good reason to request initial drawings when conflicts emerged between information provided on the data base subscriber forms and what was actually present at subscribers' locations.

#### CASI's Problems Programming the Switch With MADN Groups

The Government did not provide CASI with subscriber forms for the MADN lines in October 1991, because CASI did not provide information on the capabilities of the switch regarding these features until 14 November 1991 (SR4, tabs 1030 at G-01369, 1232; tr. 6/121-22). This involved approximately 1,500 data base forms (tr. 6/119). After the forms were submitted to CASI, however, problems with the MADNs continued. At a meeting on 6 February 1992, CASI's difficulty in loading MADN feature information into the switch was noted (SR4, tab 1148 at G-00572). By letter dated 7 February 1992, the Navy put its concerns into writing, questioning whether CASI had the expertise to program the switch and suggesting CASI approach the switch vendor, NTL. The Navy further warned, "without adequate expertise in the area of switch programming, CASI's performance under the contract is in jeopardy." (SR4, tab 1146)

In a 12 February 1992 meeting, CASI informed the Government that (among other problems) it was unable to meet the contractual requirements for MADN groups. CASI's proposal had offered MADNs for up to 32 stations, but CASI stated that only 10 stations were available for "multiline sets that do not have an individual I.D. Circuit (DN) separate

from the MADN. Also, MADN groups with individual I.D. circuits have been restricted to 24 sets.” (SR4, tab 1163) By letter dated 24 February 1992, CASI explained how some limitations on MADN sets could be overcome by utilizing a different line configuration or a different telephone set but that only two sites could support a MADN group up to 32 stations (SR4, tab 1190 at 15322-23). On 17 March 1992, CASI provided “Engineering Guidelines for MADNS” which listed the “maximum number of MADNS assignable at each CTS site” (SR4, tab 1282). The provision of these guidelines, right before cutover, forced Ms. Autrey to revise the subscriber data base loading forms:

So in some areas, I had to rewrite the orders to either change them down to 16, and in one area I had to change it down to 8, and then in another area the code told me they weren't real happy.

So I had to put them on cutover devices until we could redesign the system.

(Tr. 6/149)

We find CASI's inability to provide capability information on the MADNs and its inexperience with programming the switch with the MADNs resulted in delay in TAS data base loading.

#### Changes and Errors in the Subscriber Data Forms

Ms. Connie Sweet, a CASI BSR, testified to the good working relationship she and the other CASI representatives had with the Navy and to almost daily contact concerning issues that arose in connection with the subscriber data forms. She singled out MADN features as an area that required consultation, but was unable to assess the extent of the contacts, although she did not consider them to be substantial overall. She guessed that overall the number of changes, both documented and undocumented, during the implementation phase was “at least twenty-five to thirty, thirty-five percent” and acknowledged, when reminded on redirect examination, deposition testimony that in her opinion the percentages were “abnormal.” However, she had tried to quantify her estimate using the subscriber data sheets, but was unsuccessful. Moreover, she was unable to assess the impact the changes had overall. (Tr. 3/171-74, 176-78, 3/191-93) She emphasized that when she referred to “change,” she did not necessarily mean “error.” There were errors. However, she did not recall any significant errors, although the time that it would take to correct an error could vary. (Tr. 3/177, 179-83, 193) Mr. Saturnino also testified to the practical inability of identifying errors and determining fault by looking at the subscriber data sheets (tr. 3/116-19).



In the circumstances, we cannot rely on the BSR's opinion or draw any useful conclusions from her testimony that would favor CASI's view of the case.

### CASI's Decision to Perform Dual Entry

After observing the acceptance testing of the TAS, CASI, on its own, decided not to use the automatic switch update feature of the TAS to transmit data to the switch. Mr. Saturnino testified he decided not to use the automatic switch update feature when he realized that "it would take a bit of time to send the data directly to the . . . switch, via the switch update subsystem." (Tr. 3/47-49) He testified that his decision not to use the automatic switch update feature was also due to the slow performance of the software (Tr. 3/144-45). Instead of using automatic switch update, Mr. Saturnino decided to re-enter the data from the 1,500 to 2,000 subscriber data base loading forms that had previously been entered into the TAS, directly into the switch. He also decided that CASI would conduct dual data entry, which has been described as the entering of identical data on two separate systems, of the remaining subscriber data that it expected to receive from the Government. (Tr. 3/47-49, 5/251)

There is no indication in the record that the Navy directed CASI to conduct dual entry. The evidence shows that Mr. Saturnino made the decision to perform dual entry himself. The Navy first became aware that CASI had initiated dual entry during the project status review on 19 February 1992, and was immediately concerned about the potential for inconsistencies between the data entered in TAS and the switch. Navy representatives asked how CASI intended to "ensur[e] the TAS and switch match[ed]." CASI answered the Navy's concerns by stating that CASI would verify subscriber data input into the switch and into the TAS by comparing printouts. (SR4, tab 1175 at G-01847; tr. 5/252-54, 7/174-75; *see also* SR4, tabs 1210, 1212)

We find that CASI unilaterally decided to use dual entry of data into the TAS and the switch, as opposed to using the automatic switch update. This was not done at Government direction.

### The Need for Line-by-Line Verification

As noted above, the Navy was concerned about CASI's dual entry decision (tr. 6/127, 7/173-74). As explained by a Navy witness, data would be in the switch, different data would be in the TAS and how could the Navy compare them or know which was correct? The only thing to do was "spill out the contents of the switch and do a line-by-line comparison." (Tr. 7/173-74) To this end, the Navy specifically requested data verification sheets (SR4, tab 1187).

CASI responded by letter of 27 February 1992, providing a schedule for the site-by-site verification, starting by 2 March 1992 at the first site, with the latest starting at Main Site by 6 March 1992. CASI stated the request for the verification sheets was outside the scope of the contract, but CASI would provide them in order to enable the Navy to analyze the accuracy of the data base with the original service order submitted by the Government. CASI again requested that it be excused from the contractual requirements regarding 20 to 28 available options on individual telephones and instead be allowed to offer only 2. (SR4, tab 1204)

Mr. James Field, the Government's CTS project manager and contracting officer's technical representative, testified, based upon his experience at Bell Labs, data entry will usually result in an error rate of five percent, which he characterized as on the high side (tr. 7/174). Prior to cutover, Ms. Autrey conducted an audit of the data pertaining to 100 multi-line telephones. She compared data that had been entered into the TAS to data that had been entered into the switch and found "mismatches" in data for 33 percent of the telephone records she audited. She attributed the responsibility for these mismatches to CASI because its personnel loaded the data. (Tr. 6/127-28)

Mr. Saturnino testified that CASI conducted a line-by-line verification of printouts of the subscriber data from the TAS and the switch for "[e]ach and every subscriber." CASI then went back and conducted "another round of verifications" after the data base had been substantially completed. (Tr. 3/53-54)

By letter to the Navy dated 20 February 1992, CASI attempted to impose a "freeze date" of 10 February 1992, after which no more data would be loaded as the system was being readied for cutover (SR4, tab 1179). The Government responded by letter of 28 February 1992, explaining this was unacceptable because CASI delayed providing the verification sheets:

It should be noted that delay in receipt of the verification sheets from CASI has created an impact on obtaining final information from the Codes for the mandatory TAS database input requirements.

The Navy noted that it had instituted a center-wide freeze for all non-critical service as of 6 January 1992, but reserved the right to insist upon processing of any order it determined to be critical. (SR4, tab 1205)

The verification sheets were required by the contract (SR4, tab 1, Attach. 2-SRS, ¶ 3.4.2.2 at 41-44). We find the Navy reasonably requested verification sheets after CASI's decision to use dual entry.

## CASI's Continued Problems With The C3 Version 4 Software Through Cutover and Beyond

While in the course of the move to the CASI Building and related testing, CASI continued to experience problems with the newly installed C3 version 4 data base (SR4, tabs 960, 1004 at A-08779). On 26 November 1991, Logica forwarded to CASI four software releases to fix problems with the C3 version 4 software (SR4, tab 1035).

CASI continued to report deficiencies in the C3 to Logica, and Logica continued to develop software fixes for these deficiencies throughout December and into 1992 (SR4, tabs 1114, 1117, 1147 at A-20625, 1150, 1152, 1169, 1180, 1184, 1220, 1317, 1324, 1992). Mr. Saturnino testified that CASI was forced to deviate from its as-planned method of entering data and work out-of-sequence. CASI was forced to task a night crew to focus primarily on entering cable information that could not be entered during the day due to the delays that CASI was experiencing with its hardware and software. (Tr. 3/55-57)

In February 1992, Logica sold its network products division to LANEX Corporation and the division's new name became Strata Group (Strata). A novation agreement between Logica, LANEX and CASI regarding the CTS contract was signed on 26 February 1992. (SR4, tab 1172) Just prior to the April cutover, a representative from Strata visited the site and met with Mr. Saturnino to observe the operation of the TAS and reported:

But, there were TOO many times when Service Order would "crash", i.e. the clerk would be inputting data and suddenly they would get a core dump; it would take a few minutes for Service Order to clean itself up and then return the clerk to Screen 1 or back to the screen they were working on; the data they just input on that screen would be lost; the data that was input on the other screens was not lost thought[sic].

....

This is frustrating on their part and should be intolerable on our part!!

(SR4, tab 1351 at A-20779)

The CTS was cutover on 10 April 1992, and system acceptance was completed by 11 May 1992 (SR4, tabs 1359, 2027, Modification No. P00040; AR4, tab 695 at 1; app. br., vol. III, ex. 2 at 18, RFA No. 152; tr. 5/65). CASI's problems with the TAS hardware and software continued.

On 13 May 1992, CASI and the Navy held a meeting to discuss punch list items remaining from the implementation phase (SR4, tabs 1440, 1448). On 16 June 1992, the Navy requested that CASI add the following three items for the TAS to the implementation phase punch list:

- 1) The TAS-to-switch download is too slow; therefore Work Requests for adds, moves, changes/Service Orders are being entered directly into the switch, bypassing the TAS,
- 2) The Service Order subsystem of the TAS is being bypassed for directory updates creating discrepancies between subscriber inventory data and directory information,
- 3) The data in the TAS does not consistently correspond to the data in the switch (because the TAS is being bypassed).

(SR4, tab 1469 at A-01881)

CASI and the Government met on 7 July 1992 to discuss, among other things, the continued slow response of the TAS computer. Ms. King attended the meeting and recorded that the parties viewed that the “slow response of the TAS computer was a serious problem.” Ms. King explained the problem and its ramifications as follows:

The original requirements, design, and approach was for a single point of entry through the TAS for all service order information with update to the switch via the TAS. This would ensure that all data in the two systems were identical. Because of the extremely slow service order update response, the process was changed to allow data entry directly into the switching system followed by updating the TAS--first for critical directory and billing information and then for other features (call pickup groups, group intercoms, and voice mail in particular)--as time permitted. This created a situation in which much of the information about the users’ telephone service was not in the TAS at system acceptance. CASI reported that recently, all updates to the TAS information had been completed, however[,] one-to-one verification between the two systems remains to be accomplished.

(SR4, tab 1497 at ¶ 2.a.; tr. 5/261-62)

In her memorandum, dated 13 July 1992, Ms. King indicated that CASI had brought in a different computer, a SUN computer, as a demonstration platform for the TAS to evaluate whether it would increase the processing speed compared to the AT&T 3B2

computer (SR4, tab 1497). On 23 July 1992, Mr. Saturnino prepared an analysis of the SUN and the 3B2 platforms, indicating that the SUN had “increased processing speed” and “faster response times” (SR4, tab 1509). By the end of July 1992, the SUN platform had been installed in the TAS building, but problems continued (*see* SR4, tabs 1540, 1548, 1550, 1551, 1557, 1561 at A-04358).

We find that CASI’s problems with its computer platform of the AT&T 3B2 computer and Logica/Strata’s software programs caused CASI’s delay in programming the TAS data base.

#### CASI’s Claim and the Contracting Officer’s Final Decision

By letter dated 4 February 1994, CASI submitted a claim for \$393,334.00. The claim alleged that the Navy directed CASI to enter Navy-gathered subscriber information—much of which was said to be inaccurate, untimely and incomplete—into the switching system in “a fragmented fashion, which was inconsistent with the ‘automatic switch update’ feature of the TAS such that CASI subsequently had to re-enter the data properly.” The claim identified \$129,473.36 for subcontracted labor costs for data entry clerks between the weeks ending 18 January 1992 and 6 June 1992, \$108,720.84 for subcontracted labor costs for alleged TAS rework between 10 May 1992 and 4 September 1993, \$306.99 for incurred subcontracted labor costs for alleged TAS rework for the week ending 5 June 1993, \$30,373.26 for subcontract labor costs for alleged TAS rework by two employees from GTE Customer Networks, between the weeks ending 8 August 1992 and 9 March 1993, \$5,832.14 for apartment rental expense for the GTE Customer Networks employees between the weeks ending 13 May 1992 and 23 January 1993 and \$28,044.00 for the relocation of TAS equipment by Strata.

By letter dated 22 July 1994, responding to a Navy 24 June 1994 letter seeking more information on the claim, CASI submitted “explanations and supplemental information,” emphasizing that the claim was for additional costs incurred to perform work outside the scope of the contract “during and immediately following the implementation phase of the CTS subscriber data base.” The rework expenses were “caused by the following Government actions: Late Data, Incomplete Data, Incorrect Data, Changes in the Data.” The letter went on to state the rework effort included:

[T]he subcontractor labor to reenter the data (which the Government directed CASI to enter improperly into the switch) into the TAS so that accurate reports (billing, inventory, directory, etc.) could be produced.

The letter stated CASI's original claim narrative documented the "additional costs incurred by CASI for the subcontractor performed rework and the reasons for that rework." (SR4, tab 1854)

This July 1994 letter also included a narrative explaining the costs associated with the TAS relocation, alleging delay in construction of the MSB caused it to install the TAS in Building 00002, then move it to the CASI building, and then move it into the MSB.

The contracting officer did not issue a decision within 60 days from receipt of the this letter or indicate within that period when a decision would be issued. CASI appealed to the Board on the basis of a "deemed denial" on 17 August 1995 and we have jurisdiction on that basis. 41 U.S.C. § 605(c)(5) The contracting officer subsequently issued a final decision on 12 December 1995, rejecting CASI's TAS claim in its entirety (SR4, tab 1896).

## DISCUSSION

CASI's principal argument is that the Navy failed in its duty to cooperate. CASI alleges the Navy failed to provide accurate and complete data on a timely basis. Instead, the Navy provided data in a fragmented fashion and insisted that CASI enter the data directly into the switching system and update it at a later date, rather than allowing CASI to use the system's automatic update feature. CASI also complains that the Navy insisted upon data verification sheets, which it says were not required by the contract, as well as the submission of initial as-built drawings. It also maintains that the Navy was responsible for two moves of the TAS computer.

### The Duty to Cooperate

The basic principles governing the breach of the duty to cooperate and not to hinder performance are well settled. The implied duty to cooperate imposes an affirmative obligation "to do what is reasonably necessary to enable the contractor to perform." *Coastal Government Services, Inc.*, ASBCA No. 50283, 01-1 BCA ¶ 31,353 at 154,833, *aff'd*, 32 Fed. Appx. 584 (2002), quoting *SEB Engineering, Inc.*, ASBCA No. 39728, 94-2 BCA ¶ 26,810 at 133,352. "Determination of a breach of the duty requires a reasonableness inquiry. 'The nature and scope of that responsibility is to be gathered from the particular contract, its context, and its surrounding circumstances.' *Commerce International Company, Inc. v. United States*, 338 F.2d 81, 86 (Ct. Cl. 1964)." *Id.* In contrast, "the implied duty of noninterference is a negative obligation that neither party to the contract will do anything to prevent performance thereof by the other party or that will hinder or delay him in its performance. *Lewis-Nicholson, Inc. v. United States*, 550 F.2d 26, 32 (Ct. Cl. 1977) quoting *George A. Fuller Co. v. United States*, 69 F. Supp. 409, 411 (Ct. Cl. 1947); *Nanofast, Inc.*, ASBCA No. 12545, 69-1 BCA ¶ 7566 at 35,049." *Id.*

(internal quotation marks omitted). The Government's actions or inaction must be shown to be unreasonable. CASI bears the burden of proof.

We must conclude that the success of CASI's position hinges on fact findings that we cannot make from the evidence of record. Instead, the evidence suggests that the Navy reasonably cooperated with CASI, while properly exercising its contract rights, as CASI addressed problems—largely of its own making—in getting the TAS operational in accordance with contract requirements. We address CASI's arguments in greater detail below.

#### Delays in Providing Subscriber Data Base Forms

CASI has questioned why the Navy did not provide subscriber data before 21 October 1991. We think our findings answer that question. CASI's own actions were the root cause. The Navy's initial efforts were thwarted by CASI's failure to provide coherent and complete directions, particularly with respect to the feature acronyms for the NTI switch. Ms. Autrey testified persuasively to the problems she had getting the acronyms needed to fill out CASI's data base forms. She knew what features were required for all the lines by 1 June 1991, and tried to get information to transfer the Navy's needs to the data base forms throughout the summer of 1991. She properly had to look to CASI for the data and did not officially receive it until 21 August 1991. At no time during that summer did CASI's Mr. Saturnino tell Ms. Autrey that she did not need the information she was seeking. Counsel's arguments that Ms. Autrey did not really need the acronyms from NTI are not supported by the record and at odds with the parties' contemporaneous conduct. (Tr. 3/130, 133-135; app. br., vol. III, IV-9 at 19)

Moreover, the evidence does not show that the Navy's efforts subsequent to 21 August 1991 were unreasonable or more importantly delayed CASI's data loading efforts. CASI had asked for piece-meal submission of data forms by 11 September 1991 and when forms were presented, the Navy was advised that CASI had computer problems. Indeed, CASI was not in a position to begin data loading until 29 October 1991 because of computer problems and its decision to relocate the TAS.

From 29 October 1991 forward, CASI was never without subscriber data forms. And, there is evidence that its own actions further complicated the submission of subscriber data forms. For example, CASI was unable to provide information on the MADN lines and how they would interact with the switch, thus causing delay. CASI also lacked expertise in loading the switch with the MADN lines, and ultimately offered less than what was contractually required.

Under the circumstances, any delay in loading the data base with subscriber information cannot be attributed to a failure to cooperate on the part of the Navy.

### Problems With Incomplete and Inaccurate Data

We accept that once having undertaken to assist in the task of collecting subscriber data, the Navy had to properly discharge those responsibilities, even though it might not have had the initial responsibility for collection. The data collection effort and the subsequent entry of the data into the TAS required close collaboration. By all accounts the working relationship was a good one. Moreover, it was understood that mistakes would be made and changes required. There is, however, simply no basis for concluding that the changes were excessive or who bore the responsibility for a change or error. We are left, then, with a record that shows a good working relationship between the parties.

CASI also complains about the Navy's request for the initial as-built drawings once the parties realized information on the subscriber data forms was not matching up to what was present in CASI-wired buildings. The initial as-built drawings were a reasonable way of assuring that the service requests matched what was in a building. This was a way to make sure the data was accurate and solve the problem CASI was complaining about. The contract required CASI to provide initial as-built drawings when requested and we believe the Navy had good reason to request the drawings when conflicts emerged between information requested on the data base subscriber forms and what was actually present at subscribers' locations.

### Direction to Perform Dual Entry of Data

There is no evidence the Navy directed CASI to perform dual entry. Indeed, there was evidence that dual entry is precisely what the Navy did not want. Inherent in dual entry is the potential for mistake, as demonstrated by the mismatch reported by Ms. Autrey between the switch and the TAS entries for at least one-third of the telephone records she studied. The TAS reporting requirements were extensive and verification reports were called for as part of CASI's quality assurance responsibilities under the contract. The Navy's request for verification reports was reasonable in the circumstances as the discrepancies subsequently identified demonstrate.

### CASI's Early and Continued Problems With TAS Caused Delays

Counsel for CASI has argued that the problems CASI experienced in connection with Logica and its product are irrelevant to the claim at issue here (app. reply br. at IV-3, Rebuttal Facts at 1, 9). We do not agree. As our findings show, the problems with the TAS system identified before cutover, and which continued after cutover, contributed materially to the difficulties CASI experienced and prompted some of the decisions for which it seeks relief in this claim. If the Logica software had worked as contemplated by CASI, there



would have been no need for the verification reports and the TAS rework sought in CASI's claim.

### Responsibility for the TAS Relocations

CASI's arguments are without merit. CASI always planned to start its base entry activities at a location other than the MSB. As we found, the original baseline schedule showed that the MSB would not be complete at the time CASI planned to start the data base entry activities. In addition, as we also found, CASI's subcontract with Logica was based on a schedule that planned a TAS relocation almost two and one-half months after the start of data base loading operations. In our view, the costs of locating the TAS at an interim site and then relocating the TAS to the MSB were part of CASI's contract responsibilities from the beginning. This is true whether the MSB was constructed at Michelson Labs (as originally planned) or at the new site where the building was actually constructed. CASI's subsequent interim relocation of the TAS to the CASI building was made on its own for its own convenience.

### Issue Not Addressed

In its briefs CASI has argued that the alleged Navy-caused delay to the completion of the MSB also adversely impacted its data base loading activities. The impact, if any, attributable to the completion of the MSB is more properly considered in connection with CASI's appeal (ASBCA No. 49075) for project delay, disruption and acceleration.

### DECISION

The appeal is denied.

Dated: 29 January 2003

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MARTIN J. HARTY  
Administrative Judge  
Armed Services Board  
of Contract Appeals

I concur

I concur

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MARK N. STEMLER

Administrative Judge  
Acting Chairman  
Armed Services Board  
of Contract Appeals

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EUNICE W. THOMAS

Administrative Judge  
Vice Chairman  
Armed Services Board  
of Contract Appeals

### NOTES

<sup>1</sup> This is one of a series of appeals which arose from this project. *See Contel Advanced Systems, Inc.*, ASBCA Nos. 49071, 49164, and 49772, 01-2 BCA ¶ 31,576; *Contel Advanced Systems, Inc.*, ASBCA No. 49072, 02-1 BCA ¶ 31,808; *Contel Advanced Systems, Inc.*, ASBCA No. 49073, 02-1 BCA ¶ 31,809; *Contel Advanced Systems, Inc.*, ASBCA No. 49076, \_\_\_\_ BCA \_\_\_\_ (23 December 2002). The remaining appeals are ASBCA Nos. 49075, 49603, 50648, 50649, 51048, and 51049.

<sup>2</sup> ¶ 2.5.5.4. Station Apparatus Supervisor

The Station Apparatus Supervisor is responsible for all installation activities associated with new telephones, subscriber stations, systems, and data collections in accordance with system specifications and drawings.

<sup>3</sup> The testimony revealed that this chart reflects the date on which sheets were received, but does not indicate when or whether the data entry actually occurred. Moreover, the chart does not differentiate among initial submissions, resubmissions and updated subscriber data sheets or address the adequacy of a submission. (Tr. 1/182-83, 186-87; ex. A-17)

<sup>4</sup> As of 9 January 1992, CASI reported a total of 5,287 service orders: 2,980 in the system and 2307 awaiting entry (AR4, tab 572). As of 13 February 1992, 7,742 service orders were in the TAS (AR4, tab 602). As of 12 March 1992, 8,802 service orders were reported to be in the TAS (AR4, tab 663).

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 49074, Appeal of Contel Advanced Systems, Inc., rendered in conformance with the Board's Charter.

Dated:

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EDWARD S. ADAMKEWICZ  
Recorder, Armed Services  
Board of Contract Appeals